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In the Supreme Court

of the

United States

OCTOBER TERM, 1964

No. 395

THE HONORABLE JAMES M. CARTER, Judge of the United States District Court of the Southern District of California, Southern Division, et al.,
Petitioners,

vs.

OLYMPIC REFINING COMPANY, a corporation, and the UNITED STATES OF AMERICA,
Respondents.

Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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B. The court below held that the District Court did not have the power, regardless of the circumstances, to continue in effect protective orders entered in a Government antitrust case where the orders denied a treble-damage plaintiff access to documents prepared by the Government in response to the interrogatories of defendants. In so holding, the court below rendered a decision in conflict with the applicable decisions of this and other courts and has so far departed from the accepted and usual course of judicial proceedings in deciding an important question of Federal law as to call for an exercise of this Court's power of supervision	11

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1. Contrary to the holding of the court below, a trial judge does have discretionary power, by specific provision of the Federal Rules of Civil Procedure and under his general equity powers, to enter and continue in effect protective orders which limit or prevent disclosure of discovery and other documents prepared or filed in the pretrial stages of a case even though the documents might have some relevance to the subject matter of another action for which they are sought 13

2. Contrary to the holding of the court below, neither the Publicity in Taking Evidence Act nor Rule 43(a) curtails, in a Government civil antitrust case, the broad discretionary power of the trial court to enter and continue protective orders which prevent disclosure of the results of pretrial discovery 15

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To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioners respectfully pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit in the above-entitled cause, reversing the judgment of the District Court for the Southern District of California, Central Division.